



**United States Department of the Interior**  
**BUREAU OF LAND MANAGEMENT**

Green River District  
Vernal Field Office  
170 South 500 East  
Vernal, UT 84078  
[www.blm.gov](http://www.blm.gov)



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DOI-BLM-UT-G010-2016-033-EA

Reid J. Nelson, Director  
Office of Federal Agency Programs  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington DC 20001-2637

Dear Mr. Nelson:

On December 12, 2016, the Bureau of Land Management Vernal Field Office (VFO) received ACHP's review of the VFO's "no adverse effect" determination for the *November 2016 Vernal Field Office Oil and Gas Lease Sale in Uintah and Duchesne Counties, Utah*. This letter documents the VFO's consideration of the ACHP's opinion and the fulfillment of our Section 106 responsibilities for this undertaking.

After much consideration, we agree that future oil and gas leasing of parcels #9 and #10, which are located in Nine Mile Canyon, may have an adverse effect to historic properties. With the removal of the parcels #9 and #10 from this undertaking, we reaffirm our determination of "**no adverse effect**" for the remainder of the parcels in this lease sale. The remaining parcels are in areas with fewer known historic properties, or are in areas with lower or medium site density potential. This letter provides a response or clarification to your letter and our original submission to your office.

**Additional Efforts to Involve Consulting Parties**

In order to reassess our effects determination for this particular undertaking, the VFO held a second meeting with consulting parties on December 7, 2016. BLM leadership present at this meeting were myself, Kent Hoffman, Deputy State Director for Lands and Minerals, and Chris Conrad, Associate Green River District Manager. Consulting parties that participated in this meeting were: Jerry Spangler from the Colorado Plateau Archaeological Alliance, Pam Miller, Blaine Miller and Steve Hansen from the Nine Mile Canyon Coalition, and Steve Bloch from the Southern Utah Wilderness Alliance. Nancy Brown (ACHP) and Chris Merritt from the Utah State Historic Preservation Office (Utah SHPO) also participated this meeting.

At this meeting, some of the consulting parties, made it clear that they were very concerned with potential oil and gas development at parcels #9 and #10 and they disagreed with our determination of effect. In response to the information provided during this meeting, Gary Torres, Acting Associate State Director, notified all consulting parties that BLM would remove parcels #9 and #10 from the lease sale. Mr. Torres communicated this decision by email to the consulting parties the following day on December 8, 2017. Immediately after sending this email, the Colorado Plateau Archaeological Alliance and Southern Utah Wilderness Alliance sent a follow-up letter by email that stated that it was their opinion that statements made by Nancy Brown during the meeting regarding the potential for adverse effects at parcels #9 and #10 also applied to parcels #4, #32, #38 and #39.

#### **Additional Consideration of Parcel #4 in Argyle Canyon**

Your letter dated December 12, 2016 to the VFO, stated “While we are not familiar with the nearby Argyle Canyon, the CPAA presents information about similar concentrations of historic properties there. . . that may need to be identified and potential effects considered prior to the issuance of any lease.” For your information, Argyle Canyon does not contain the site density, nor is there any resemblance to the amount of the prehistoric or historic material or record in Argyle Canyon as is present in Nine Mile Canyon. Although hundreds of sites have been identified and recorded in Nine Mile Canyon, less than twelve sites, seven of which their locations have been confirmed, have been recorded in this canyon that stretches over 20 miles (2015 Spangler and Aton: map and page 56; Utah Preservation Pro Database). All of these sites are located within 2.5 miles of the opening of Argyle Canyon to Nine Mile Canyon and were originally located by early archaeological studies in the Nine Mile Canyon area. These sites are located on the hill side above the existing and maintained county road. At the convergence of Argyle Canyon and Nine Mile Canyon, some of the numerous sites that have been identified near parcels #9 and #10 are located. To the casual visitor, these sites are considered to be in Nine Mile Canyon. On the other hand, there are no recorded sites, near parcel #4 or on the western end of Argyle Canyon where the canyon bottom road connects to Highway 191.

Further beyond the intersection of Nine Mile Canyon, no cultural resources have been located within a mile of Argyle’s canyon bottom road during all 18 Class III – Intensive Pedestrian Surveys (Class III survey) that have been conducted in Argyle Canyon. These Class III surveys were completed for: three oil and gas well pads and a pipeline along the canyon bottom road, a seismic line, a land sale, a gravel pit, a telecommunications tower, grazing fence line, wildland fire rehabilitation projects, a firewood sale power line, and a fuels reduction project. In each one of these identification efforts, it was determined that the undertaking would have “no historic properties affected” or would have “no adverse effects” to historic properties. Given the lower site density in Argyle Canyon and the completion of numerous undertakings without any direct, indirect or cumulative adverse effects to historic properties, including two nearby oil and gas well pads that were surveyed for approximately 10 acres each and an oil and gas pipeline, I reaffirm that the leasing of parcel #32 will have “no adverse effect” to historic properties.

#### **Additional Consideration of Parcels #32**

This parcel is in an area of low cultural resource density. This low site density is generally defined as less than one site for every 40 acres or approximately one site found for every eight

hours of Class III survey conducted by a single archaeologist. The Utah Division of State History cultural resource geodatabase identifies three cultural resource surveys within approximately one mile of parcel #32. These surveys only identified one cultural resource site, which was determined not eligible for inclusion in the National Register of Historic Places. Two of these surveys were conducted for seismic lines and one was conducted for a wildlife improvement project. None of these undertakings were determined to have adverse effects to historic properties. With the low site density in this area and the completion of numerous undertakings without any direct, indirect or cumulative adverse effects to historic properties, I reaffirm that the leasing of parcel #32 will have “no adverse effect” to historic properties.

#### **Additional Consideration of Parcel #38**

This parcel is in an area of low cultural resource density. Sixty-three Class III surveys have been conducted within approximately a mile and a half of parcel #38. Thirty-four of these Class III surveys were conducted for oil and gas well pads that were surveyed at approximately 10 acres each. The additional 29 Class III surveys were conducted for various undertakings such as 12 separate pipeline projects, seismic lines, access roads, a processing plant, a compressor station, and two livestock water reservoirs. With these numerous undertakings and hundreds of acres of survey, only six cultural resource sites were found. Four of these six sites were determined eligible for inclusion in the National Register of Historic Places. With this information it is clear that the area in and around parcel 38 is in an area of low cultural resource density. Furthermore, none of these undertakings were determined to have adverse effects on historic properties in this area. With the low site density in this area and the completion of numerous undertakings without any direct, indirect or cumulative adverse effects to historic properties, I reaffirm that the leasing of parcel #38, will have “no adverse effect” to historic properties.

#### **Additional Consideration of Parcels #39**

Nine Class III surveys have been conducted within approximately a mile of parcel #39. From these surveys a total of five sites, none of which were determined eligible for inclusion in the National Register of Historic Places were identified. All nine of the Class III surveys were conducted for oil and gas well pads, seismic lines, and one powder magazine. None of these undertakings were determined to have adverse effects to historic properties in this area. With the low site density in this area and the completion of numerous undertakings without any direct, indirect or cumulative adverse effects to historic properties, I reaffirm that the leasing of parcel #39, will have “no adverse effect” to historic properties.

#### **Further Discussion Regarding the Remaining Parcels Listed in the Lease Sale**

Previous survey coverage within these parcels varies widely with moderate to low survey coverage being the norm. However, all parcels are in areas with sufficient survey coverage on adjacent or similar land forms to make reasonable assumptions about expected site density within or near parcels. The VFO expects all parcels to have low or medium site density. All parcels are sufficiently large, have sufficient topographic complexity, and/or have sufficient areas of expected low or medium site densities to allow for 5 acres of disturbance associated with a single well pad within, and in some cases near, a parcel without causing any adverse effects to historic properties. With the expected site densities in this area and the completion of numerous undertakings without any direct, indirect or cumulative adverse effects to historic properties, I

reaffirm that the leasing of the remaining parcels in this lease sale, will have “no adverse effect” to historic properties.

#### **Discussion of ACHP’s Opinion and Consulting Party Comment**

In your letter, the ACHP urges agencies to “develop policies and procedures that require the initiation of Section 106 consultation prior to leasing decisions.” It should be noted that the documentation submitted to the ACHP regarding this undertaking clearly demonstrate that the VFO initiated Section 106 prior to this lease sale, and was following standard Section 106 procedures found at 36 C.F.R. § 800. These procedures included the development of a cultural resource report and consultation with Tribes, the SHPO and consulting parties. In addition, the following leasing stipulation is legally connected to each of the lease sale parcels:

This lease may contain historic properties and/or resources protected under the NHPA, American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated.

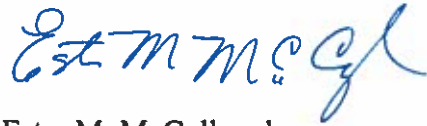
This stipulation requires the VFO to conduct more cultural resource identification and evaluation efforts for any future oil and gas developments associated with these leases if they are sold, which will most likely include Class III surveys. These Class III surveys, or relevant information from existing adequate Class III surveys, would be used prior the BLM authorizing any ground disturbing activities. If historic properties are identified, the VFO will make every effort to first avoid any potential effects to these resources. If potential adverse effects to historic properties are identified and cannot be avoided, the VFO will resolve those adverse effects by following the procedures in *Resolution of adverse effects* at 36 C.F.R. § 800.6.

#### **Conclusion**

BLM has conducted a “good faith and reasonable” effort to identify historic properties for this undertaking as defined in the *Identification of Historic Properties* 36 C.F.R. § 800.4(b)(1). As part of this process, the BLM has fully defined the undertaking, developed an Area of Potential Effect, completed a cultural resource report which included an in-depth cultural resource records review and analysis, provided for multiple opportunities for consulting party input, and made a determination of effect based on professional judgement, existing land use planning decisions and leasing stipulations, and an understanding of oil and gas operations in the area.

If you have additional questions please contact David Christensen, Vernal Field Office Archaeologist, at (435)781-3423 or [dchristensen@blm.gov](mailto:dchristensen@blm.gov). I am always available at (435)781-3416 or [emccullo@blm.gov](mailto:emccullo@blm.gov). Thank you for your opinion in this undertaking.

Sincerely,



Ester M. McCullough  
Vernal Field Office Manager

cc: Christopher Merritt, Deputy State Historic Preservation Officer, Utah Division of State History  
Jerry Spangler, Executive Director, Colorado Plateau Archaeological Alliance  
Dennis Willis, President, Nine Mile Canyon Coalition  
Steve Bloch, Southern Utah Wilderness Alliance  
Leigh J. Kuwanwisiwma, Director, Hopi Cultural Preservation Office